

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Transfer Application No.78 of 2025

Applicant : Muhammad Salman, through Mr. Abdul Ahad Ahmar Khan, Advocate.

Respondent : Shahida Shamim, through Mr. Umar Farooq, Advocate.

Respondent : The State, through Mr. Muhammad Noonari, D.P.G.

Date of Hearing : 11.11.2025

Date of Order : 11.11.2025

ORDER

TASNEEM SULTANA, J: Through this application under Section 528 Cr.P.C., the applicant seeks transfer of Criminal Session Case No.1597 of 2023 arising out of FIR No.124 of 2023 under Sections 302 and 201 PPC of Police Station Sharifabad from the Court of 1st Additional Sessions Judge, Central Karachi to any other Court having jurisdiction.

2. The applicant has alleged that he has lost faith in the Presiding Officer as during the course of hearing he was insulted in open Court and that the learned Judge showed undue favour towards the accused, therefore, he has reasonable apprehension that justice may not be done.

3. Heard. Record perused.

4. The learned counsel for the applicant contended that during proceedings the trial Court pressurized the complainant to close his evidence and even suggested to the accused's counsel to file a bail application, which according to him, shows partiality. It was further argued that the complainant along with witnesses appeared on several dates, but the matter was unnecessarily deferred, and when he sought adjournment on account of the absence of his counsel, the Presiding Officer became annoyed and misbehaved with him in presence of accused persons. It was thus contended that the complainant has lost confidence in the impartiality of the Court.

5. The learned trial Judge in his comments denied all such allegations as false and baseless. It is stated that he resumed charge

in April 2025 and, after hearing both sides, allowed an application under Section 540 Cr.P.C. filed by the complainant for recalling witnesses, with direction to produce evidence. It is further explained that despite repeated opportunities and adjournments granted on 10.07.2025, 14.07.2025, and 17.07.2025, the complainant failed to produce witnesses. Directions had already been issued by this Court to expedite the trial and record material evidence within a limited period; therefore, the trial Court insisted upon proceeding in accordance with law. It is emphasized that the entire conduct of proceedings was maintained with decorum and fairness.

6. The transfer of the case being sought mainly on the ground of biasness of the learned Presiding Officer, seized with the trial of the subject case. The Honourable Apex court, in the case of Pakistan Newspaper Society and others v. Federation of Pakistan (PLD 2012 SC 1) has graciously laid down that; “bias is said to be of three different kinds:-

a) A Judge may have a bias in the subject matter which means that he is himself a party or has direct connection with the litigation, so as to constitute a legal interest. A ‘legal interest’ means that the Judge is ‘in such a position that a bias must be assumed’.

b) Pecuniary interest in the cause, however, slight, ‘will disqualify the Judge, even though it is not proved that the decision has in fact been affected by reason of such interest. For this reason, where a person having such interest sits as one of the Judges the decision is vitiated.

c) A Judge may have a personal bias towards a party owing to relationship and the like or he may be owing to relationship and the like or he may be personally hostile to a party as a result of events happening either before or during the trial.

Whenever there is any allegation of personal bias, the question which should be satisfied is, “Is there in the mind of the litigant a reasonable apprehension that he would not get a fair trial?”

The test is whether there is a ‘real likelihood of prejudice’, but it does not require certainty.” Real likelihood’ is the

apprehension of a reasonable man apprised of the facts and not the suspicion of fools or ‘capricious persons’.”

7. Keeping in view the aforementioned dictums laid down by the apex court, it can be safely observed that the applicant has failed to establish the bias in Judge because utterances of the other side that he will get favour from the court does not constitute sufficient ground for transfer of the case from one court to another. The contention of the applicant that the trial court is biased against him is not supported by any sort of evidence. In order to demonstrate bias against Judge, it must be established that some act or expression of a judge visible on the ground will adversely affect the case.

8. Mere assumption and apprehension cannot be entertained as tangible evidence; therefore, the bald statement cannot be made the basis for the transfer of case, and the case would not be transferred as a matter of routine or at the whims of the parties. The administration of justice requires that litigants should have confidence in the judicial system. Although the application could be filed for transfer of a case when a party has sufficient reasons, grounds, and evidence in his/her possession regarding pecuniary interest, and bias of judicial officer. Certainly, these elements are not available in the case in hand.

9. The allegation levelled in the application, when examined, reveals that no substantial evidence has been attached/annexed along with the application for transfer of the case. Most of the allegations are of vague and evasive nature, having no substance. Whether merely an apprehension of not getting justice from the hands of the court could be ground for the transfer of the case, surely this is not the position of law on the subject. For one to prove bias of a judge has to prove through trustworthy evidence.

10. For the above-stated reasons, the CrI. Transfer Application is dismissed.

JUDGE

Ayaz Gul